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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------|---------------------|------------------|
| 09/611,548 | 07/07/2000 | DOUGLAS G. LOWENSTEIN | 114595-2-Polest | 6763 |
| 68536 7590 05/05/2009 THE LAW OFFICE OF DONNA L. ANGOTTI 140 BROADWAY SUITE 4600 NEW YORK, NY 10005 | | | | |
| EXAMINER SUBRAMANIAN, NARAYANSWAMY | | | | |
| ART UNIT 3695 | | PAPER NUMBER | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

***Advisory Action
Before the Filing of an Appeal Brief***

Application No.

09/611,548

Applicant(s)

LOWENSTEIN ET AL.

Examiner

Narayanswamy Subramanian

Art Unit

3695

—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

THE REPLY FILED 04 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____ (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-27, 31-52, 56-59 and 74-181.

Claim(s) withdrawn from consideration: 28-30, 53-55 and 60-73.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: of the following reasons. In response to request for withdrawal of finality of office action on grounds that the final rejection is premature, the Examiner respectfully disagrees. A non-final rejection was made on November 1, 2006, after which the claims were amended by the Applicants. The 112, second paragraph rejections and 101 rejections made in the final office action were necessitated by amendments. Claims 28-30, 53-55 and 60-73 were withdrawn from consideration (based on a restriction made after the last non-final office action) and hence no rejection was made for these claims. In response to Applicant's assertion that "No Restriction is Appropriate Because There Cannot Be Any Serious Search Burden", the Examiner respectfully disagrees. For any application to be properly examined, a thorough search of the relevant art must be made and updated before a patent can be issued. With passage of time, new patent literature which may have a bearing on the Application may unfold (as new patents with older priority date get issued). To not search for such prior art would not be in keeping with proper examination procedure. Searching more than one invention poses serious search burden for the examiner. The Applicants have added several claims since the last non-final action which adds to the burden. In response to Applicant's assertion that the groups are misclassified, the Examiner respectfully disagrees. The reasons for classifying the inventions into the respective class/subclass has already been addressed in the office action mailed on January 10, 2008. In response to Applicant's directive on 101 panel the Examiner would like to clarify that the only reference to any memos made in the interviews, were to the memo from Director John Love. In response to Applicant's assertion that the 112, second paragraph rejections are improper, the Examiner respectfully disagrees. As stated in the rejection, firstly, it is not clear as to what portion of the lease is performed with assistance of a computer. Secondly it is not clear as to what specific aspect of the lease is performed with assistance of a computer. Finally it is not clear as to what the Applicants mean by the limitation "performed with assistance of a computer". It is not clear what the term "assistance of a computer" entails. The metes and bounds of this limitation are unclear. In view of these reasons the scope of the claim is unclear. With respect to the 101 rejections, the Examiner withdraws the rejection made paragraphs 7 and 8 of the final rejection mailed on